

Shubh Arora and ors Vs. State

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Court : Delhi

Decided On : Aug-26-2014

Judge : Sudershan Kumar Misra

Appellant : Shubh Arora and ors

Respondent : State

Judgement :

§~34 * IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.M.C. 3832/2014 SHUBH ARORA & ORS Petitioners Through: Mr. Rebecca M. John, Sr. Adv. with Mr. Harsh Bora and Mr. Nikhil Ahuja, Advocates. versus STATE Respondent Through: Mr. Amit Ahlawat, APP for the State. ASI Shri Ram PS Hari Ram. CORAM: HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA % SUDERSHAN KUMAR MISRA, J.

(ORAL) Crl. M.A. Nos. 13120-21/2014 (for exemption) Exemption applications, as prayed for, are allowed, subject to all just exceptions. Both these applications are disposed off. Crl. M.C.3832/2014 & Crl. M.A.13119/2014 (for stay) 1. Issue notice.

2. Counsel for the State accepts notice.

3. This petition under Section 482 of the Code of Criminal Procedure, 1973, has been moved by the petitioners seeking modification of order dated 20.08.2014 passed by Metropolitan Magistrate, Tis Hazari Courts, in a case titled State versus Shubh Arora & Others in FIR No.350/2012 registered under 498A/406/34 IPC at

Police Station Hari Nagar, Delhi, at the instance of complainant Ms. Mona Khurana.

4. The petitioners are also aggrieved of the orders passed by the Metropolitan Magistrate on 02.08.2014 whereby non-bailable warrants were directed to issue to secure the presence of the petitioners before that Court on 01.09.2014 in that matter. On 20.08.2014, the said non-bailable warrants were stayed till 01.09.2014 on an application moved on behalf of the petitioners/accused persons seeking their cancellation, and the matter was posted for that date for appearance of the petitioners and furnishing of bail bonds. It is submitted that as a matter of fact, the matter between the parties primarily concerns a family dispute, now amicably settled; and a Memorandum of Understanding has also been executed between the parties setting down all the terms thereof on 06.03.2014. A copy of the Memorandum of Understanding is annexed to this petition.

5. Counsel for the petitioners further states that out of the total amount of Rs.16.5 lacs envisaged therein, an amount of Rs.8.5 lacs already stands paid. Furthermore, a petition for divorce by mutual consent has also been moved under Section 13B (1) of the Hindu Marriage Act, 1955 seeking dissolution of marriage being HMA no.559/2013 on 03.12.2013. In that matter, orders on the First Motion petition have been passed by the Court on 10.01.2014. The Joint Second Motion petition is also stated to have been duly filed, and is now posted for consideration on 06.09.2014. Learned counsel for the petitioners points out that as a matter of fact the impugned orders, as bailable warrants against the petitioners, came to be issued because counsel for the petitioners recorded the wrong date on the previous date of hearing i.e. on 09.05.2014 when the matter was taken up by the Link Metropolitan Magistrate, and was under the impression that the matter has been adjourned for 21.08.2014 instead of 02.08.2014.

6. It is obvious that the orders directing issuance of non-bailable warrants to secure the presence of the petitioners on 02.08.2014, as well as the subsequent orders dated 20.08.2014, directing the petitioners to appear on 01.09.2014 furnishing bail bond etc. came to be passed in somewhat peculiar circumstances of this case and deserve to be set aside.

7. Consequently, both the said orders dated 02.08.2014 and 20.08.2014 are set aside. The petitioners to now appear before the Magistrate on 23.09.2014 as originally directed. It would be open to the petitioners to enter appearance on that date through counsel after moving an appropriate application on their behalf before the next date before the Magistrate, who shall consider it as per law.

8. The petition along with CrI. M. A. No.13119/2014 (for stay) stand disposed off accordingly.

9. Dasti. SUDERSHAN KUMAR MISRA, J.

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